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RUEHBI/AMCONSUL MUMBAI PRIORITY 5649
RUEHON/AMCONSUL TORONTO PRIORITY 0409
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RHHMUNA/HQ USPACOM HONOLULU HI PRIORITY
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DEPARTMENT FOR SCA/INS
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TAGS: [PGOV](#) [PREL](#) [PTER](#) [PHUM](#) [MOPS](#) [CE](#)
SUBJECT: SRI LANKA: GOVERNMENT CRITICIZES EMINENT PERSONS;
INTERNATIONAL PANEL NEARS END GAME

REF: A. COLOMBO 1171
[1](#)B. COLOMBO 966
[1](#)C. COLOMBO 835 (AND PREVIOUS)

[1](#)1. (SBU) SUMMARY: The International Independent Group of Eminent Persons (IIGEP) submitted its second Interim Report to the President on September 18 and released its third public statement on September 19. The Commission of Inquiry (COI) and Attorney General's (AG) office sent strongly-worded letters to IIGEP Chairman Justice P.N. Bhagwati this week, objecting to the substance of the statement and the process by which it was released. On September 25, Ambassador and other Heads of Mission of the IIGEP donor countries discussed the GSL's reaction to IIGEP's third public statement, UN High Commissioner for Human Rights Louise Arbour's upcoming October visit, and the future of IIGEP. The Ambassadors agreed that Arbour's advice about the future of IIGEP and the views of the Eminent Persons (EPs) themselves would be significant factors in determining how long to extend funding. IIGEP's efforts have yet to produce significant results in clearing up the cases under investigation. However, IIGEP's suggestions for improving the draft witness protection law, if incorporated into the final legislation, may yet provide a return on the donor countries' considerable investment. End Summary.

[1](#)2. (SBU) On September 18, IIGEP submitted its second Interim Report to the President. There has been no response to date from the President's office to this report, or to the first Interim Report submitted in June 2007. IIGEP released its third public statement on September 19. As required, the statement was submitted to the COI and the AG's office two weeks in advance. Neither office responded to the statement in writing within the 2 week deadline.

GSL Letters Criticize IIGEP

13. (SBU) The COI and AG's office subsequently sent strongly-worded letters to IIGEP Chairman Justice P.N. Bhagwati, which were made public, objecting to the substance of IIGEP's most recent public statement as well as the process by which it was released. The AG's letter, dated September 22, noted that the release of the statement appeared timed to coincide with the 6th Session of the UN Human Rights Council and implied that the EPs had intended to influence the deliberations of the HRC. The AG reiterated his previous defense of his office's role within the COI, saying the AG does not direct investigations, but merely advises COI investigators. As a result, he said, there is no conflict of interest. He noted that the COI is not entitled to financial independence because it is not a permanent body. Instead, it must continue to rely on the Presidential Secretariat to approve all funding requests. He added that

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new legislation on providing assistance and protection to victims of crime and witnesses will likely be presented to the cabinet soon and will likely be in place within the next two months. Therefore, he said, IIGEP should not make public statements that undermine public confidence in the GSL's ability to protect witnesses. He urged the IIGEP to engage with the Commission in a more constructive manner.

14. (SBU) The COI's letter, dated September 24, expressed "shock" at the IIGEP's decision to release the third public statement "in grave violation" of the procedures outlined in the Presidential Invitation to IIGEP. The COI said it explained its objections to the public statement in a meeting with Japanese Eminent Person Yozo Yokota on September 18 and on the same day sent a letter to the Eminent Persons outlining COI's concerns. (Note: The IIGEP Secretariat was

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not copied on this e-mail "letter," which was sent just before midnight on September 18. IIGEP released its statement before it became aware of the letter's existence.) The release of the public statement, despite the COI's objections, is "disrespectful of the COI and contrary to your mandate contained in the Presidential Invitation," according to the COI's letter. The COI claimed the IIGEP has taken "an adversarial role vis-a-vis the COI and its work" which "probably reflects the IIGEP's mindset that they have a monitoring role." The COI noted that the international community has committed substantial resources to support the IIGEP's work, which is "lost when the IIGEP are not physically present to observe" COI's proceedings. COI also complained that the IIGEP had failed to promptly pass on third party information to the COI in violation of the Presidential Invitation.

Heads of Mission Discuss IIGEP's Future

15. (SBU) On September 25, Ambassador attended an IIGEP donors' meeting hosted by the Dutch Ambassador, including Heads of Mission of Australia, the European Union, and Canada, as well as IIGEP Assistant Dennis Milner. The group discussed the GSL's reaction to IIGEP's third public statement, UN High Commissioner for Human Rights Louise Arbour's upcoming visit (October 9 to 13) and the future of IIGEP. Participants agreed that the recent exchange of letters between IIGEP, the GSL, and the COI was unlikely to help the situation. They noted that the COI and AG letters addressed procedural problems while ignoring the substance of IIGEP concerns. Canadian High Commissioner Angela Bogdan, who had recently met Arbour (a Canadian) in Geneva, reported that Arbour's goal for her visit is GSL permission for the UN OHCHR to expand its presence in Sri Lanka. IIGEP Chairman Bhagwati, Canadian Eminent Person (EP) Bruce Matthews, and European Union EP Jean-Pierre Cot plan to be in Colombo during the Arbour visit. Heads of Mission agreed that Arbour's advice about the future of IIGEP and the views of the EPs themselves would be significant factors in

determining how long to extend funding. Milner observed that the EPs have differing opinions on this subject. European Commission Head of Delegation Julian Wilson said that the EU would fund IIGEP until the end of June 2008 and would consider extending funding as late as 2010, albeit on a much reduced basis. Bogdan said Canada's funding would expire in March. Dutch funding will stop at the end of 2007.

Formal Extension Not Yet Granted

16. (SBU) The COI has yet to ask the President formally for an extension of its mandate, which is set to expire on November 3. However, the COI has informed IIGEP that the President likely will extend the mandate for six months or a year. The date of the next IIGEP Plenary has not been set, but is planned for mid-November.

17. (SBU) COMMENT: Donor countries' considerable investment in IIGEP has not yet produced results in terms of clearing up the serious abuses under investigation, or holding those responsible accountable. It is likely that during the November Plenary, the COI will announce the extension of its mandate and request that IIGEP extend as well. Embassy believes that unless considerable progress is forthcoming in the next few weeks, the Eminent Persons may well decide to decline this invitation. (Note: It is not clear that there is sufficient donor support to carry on the work of IIGEP even if the EPs were prepared to continue.) If the visits of Louise Arbour and UN Special Rapporteur on Torture Manfred

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Nowak (October 1-8) do not go well, the GSL may be tempted to blame IIGEP for the failings of the COI. If the IIGEP decides to end its work on schedule, EPs and Assistants will have to make tough decisions about what to do with the information they have gathered from witnesses, who have much to fear should their identities be revealed. The IIGEP's most enduring legacy may turn out to be its contribution to the new witness protection law. However, it is uncertain at this point how many of the IIGEP's suggestions the Justice Ministry will incorporate into the final legislation.

BLAKE